



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0101; Notice 1]

Morgan 3 Wheeler Limited, Receipt of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT)

ACTION: Receipt of Petition

SUMMARY: Morgan 3 Wheeler Limited¹ (Morgan) has determined that certain model year (MY) 2012 and 2013 Morgan model M3W three-wheeled motorcycles do not fully comply with either paragraph S7.9.6.2(b) or paragraph S10.7.1.2.2 (depending on the vehicles date of manufacture) of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. Morgan has filed an appropriate report dated August 6, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

DATES: The closing date for comments on the petition is [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer

¹ Morgan 3 Wheeler Limited is a manufacturer of motor vehicles and is registered under the laws of England.

to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590.
- Hand Deliver: Deliver comments by hand to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590. The Docket
Section is open on weekdays from 10 am to 5 pm except
Federal Holidays.
- Electronically: Submit comments electronically by:
logging onto the Federal Docket Management System
(FDMS) website at <http://www.regulations.gov/>. Follow
the online instructions for submitting comments.
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will

be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. Morgan's petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Morgan submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Morgan's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles involved: Affected are approximately 139 MY 2012 and 2013 Morgan model M3W three-wheeled motorcycles manufactured during the period August 1, 2012 to August 14, 2013.

III. Noncompliance: Morgan explains that the noncompliance is that the affected vehicles were equipped with dual horizontally-mounted headlamps mounted 29 inches apart (lens edge to lens edge) rather than within 200 mm as stated in FMVSS No. 108. In addition, Morgan states that the headlamps are not marked with the symbol "DOT."

IV. Rule Text: Paragraphs S7.9.6.2(b) and S10.17.1.2.2 of FMVSS No. 108 require in pertinent part:

Paragraph S7.9.6.2(b) (applies only to the subject vehicles manufactured before December 1, 2012).

If the system consists of two headlamps, each of which provides both an upper and lower beam, the headlamps shall be mounted either at the same height and symmetrically disposed about the vertical centerline or mounted on the vertical centerline. If the headlamps are horizontally disposed about the vertical centerline, the distance between the closest edges of their effective projected luminous lens areas shall not be greater than 200 mm (8 in.).

Paragraph S10.17.1.2.2 (applies only to the subject vehicles manufactured after December 1, 2012).

If the headlamps are horizontally disposed about the vertical centerline, the distance between the closest edges of their effective projected luminous lens areas must not be greater than 200 mm.

V. Summary of Morgan's Analyses: Morgan stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. Horizontal separation of the headlamps

- Morgan contends that the headlamps meet the technical requirements of FMVSS No. 108 and that the current horizontal spacing of 29 inches is in the best interests of road safety. If the M3W were compliant with the existing motorcycle head lamp spacing requirement, other road users would not have an accurate indication of the width of an oncoming M3W.
- For ongoing production Morgan shall source an FMVSS No. 108 compliant headlamp and shall install such lamp in accordance with FMVSS No. 108 along the vertical centerline of the M3W. This lamp shall be wired to the vehicle lighting switch. The two lamps separated by 29 inches shall remain available as optional driving lamps wired to a separate switch and shall be supplemental driving lamps. This change in specification shall apply to any US retail sales after the date of Morgan's notification of noncompliance

submitted under 49 CFR part 573 for the subject vehicles.

II. Lens marking

- Morgan contends that the noncompliance is inconsequential as it relates to motor vehicle safety on the basis that the lamps meet the substantive requirements of FMVSS No. 108 and Morgan owners almost exclusively go to Morgan dealers for replacement parts.
- For ongoing production, the headlamps shall have all FMVSS required markings.

Morgan also presents several arguments as to how it believes previous NHTSA inconsequential noncompliance determinations can be applied to a decision on its petition. See Morgan's petition for a complete discussion of its reasoning.

In addition, Morgan knows of no reports of injuries or other safety issues in the US or the rest of the world caused by the subject noncompliance.

In summation, Morgan believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49

U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

In its petition, Morgan also requested that NHTSA amend the headlamp spacing requirements in FMVSS No. 108 during future rulemaking. This request cannot be considered as part of the instant petition as filed under 49 CFR part 556. However, Morgan may consider petitioning the Agency for rulemaking. The appropriate type of petition to request a change in a rule is one filed under 49 CFR Part 552 *Petitions for Rulemaking, Defect, and Non-Compliance Orders*.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the vehicles that Morgan no longer controlled at the time it determined that the noncompliance existed. However, a decision on this petition cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant motor vehicles

under their control after Morgan notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Issued on: December 2, 2013.

Claude H. Harris, Director
Office of Vehicle Safety Compliance

Billing Code: 4910-59-P